

### **REMARKS**

This responds to the Office Action dated October 25, 2007.

No claims are amended, no claims are canceled, and no claims are added. Thus, claims 1-60 are currently pending in this application. Of these 60 pending claims, claims 29-60 are currently being considered, and claims 1-28 stand withdrawn from consideration.

#### **§102 Rejection of the Claims**

##### ***Claims 29-43, 45-56 and 58-60***

Claims 29-43, 45-56 and 58-60 were rejected under 35 U.S.C. § 102(b) as being anticipated by Kramer et al. (U.S. Patent Application Publication 2002/0133198, “Kramer”). Applicant respectfully traverses the rejection for as least the following reasons.

With respect to claim 29, Applicant is unable to find in the cited portions of the cited references, among other things, an implantable cardiac rhythm management (CRM) device including a controller adapted to control processing of the sensed signals and recording of data to the memory, the data including data indicative of whether the left ventricle cardiac site was paced at the predetermined time interval with respect to the cardiac event at the second cardiac site, a communication circuit adapted to transmit the recorded data to an external device for presentation of data trends useful to assess an efficacy of the prescribed CRT, as recited in the claim.

Paragraph 6 of the Office Action states, “Kramer et al. disclose the various claimed limitations of the controller adapted to trend data samples of data indicative of whether the left ventricle cardiac site was paced at the predetermined time interval with respect to the cardiac event at the second cardiac site...” However, the Office Action does not cite a specific portion of Kramer for this, and Applicant is unable to find it in Kramer.

Claims 30-43 and 45-48 depend, either directly or indirectly, on claim 29 and are believed to be in condition for allowance with claim 29.

Additional reasons for allowance are found in the dependent claims. For example with respect to claim 34, Applicant is unable to find the controller adapted to record a pacing mode and time information in the memory, as recited in the claim. With respect to claim 35, Applicant

is unable to find the controller adapted to record when the device is operating in an atrial tracking mode to the memory, as recited in the claim. With respect to claim 36, Applicant is unable to find the controller is adapted to trend samples of data indicative of whether the left ventricle cardiac site was paced at the predetermined time interval with respect to the cardiac event at the second cardiac site, including to trend N samples per unit time, as recited in the claim. With respect to claim 37, Applicant is unable to find the controller adapted to trend samples of data indicative of whether the left ventricle cardiac site was paced at the predetermined time interval with respect to the cardiac event at the second cardiac site, including to trend N samples per unit time until a predetermined change occurs in delivered CRT, and then trend M samples per unit time, as recited in the claim. With respect to claim 38, Applicant is unable to find the controller adapted to trend samples of data indicative of whether the left ventricle cardiac site was paced at the predetermined time interval with respect to the cardiac event at the second cardiac site, including to trend N samples per unit time until a predetermined threshold is reached related to delivered CRT, and then trend M samples per unit time, and then trend M samples per unit time, as recited in the claim. With respect to claim 39, Applicant is unable to find the controller adapted to trend samples of data indicative of whether the left ventricle cardiac site was paced at the predetermined time interval with respect to the cardiac event at the second cardiac site, including to trend N samples per unit time until a predetermined event occurs, and then trend M samples per unit time, as recited in the claim. With respect to claim 40, Applicant is unable to find the controller adapted to trend samples of data indicative of whether the left ventricle cardiac site was paced at the predetermined time interval with respect to the cardiac event at the second cardiac site, including to trend M samples per unit time after initiation of a trigger selected from a group consisting of: a predetermined change in delivered CRT, a predetermined threshold related to delivered CRT, and a predetermined event, as recited in the claim. With respect to claim 41, Applicant is unable to find the controller adapted to trend samples of data indicative of whether the left ventricle cardiac site was paced at the predetermined time interval with respect to the cardiac event at the second cardiac site, including to trend a first parameter before a trigger selected from a group consisting of a predetermined change in delivered CRT, a predetermined threshold related to delivered CRT, and a predetermined event, and to trend a second parameter after the trigger, as recited in the claim.

With respect to claim 49, Applicant is unable to find in the cited portions of the cited references, among other things, a system with a CRM device and a programmer, the CRM device including a set of interface channels adapted to provide the prescribed CRT, wherein at least one of the channels is adapted to receive sensed cardiac signals from at least one of the plurality of electrodes and a controller adapted to communicate with the set of interface channels and the memory, the controller adapted process sensed cardiac signals and to record data to the memory of the CRM device, the data including data indicative of whether the left ventricle cardiac site was paced at the predetermined time interval with respect to the cardiac event at the second cardiac site, as recited in the claim. Claims 50-53 depend directly on claim 49 and are believed to be in condition for allowance with claim 49.

With respect to claim 54, Applicant is unable to find in the cited portions of the cited references, among other things, a system with a CRM device and a programmer, the CRM device including a set of interface channels adapted to provide the prescribed CRT, wherein at least one of the channels is adapted to receive sensed cardiac signals from at least one of the plurality of electrodes, and a controller adapted to communicate with the set of interface channels and the memory, the controller adapted record data to the memory of the CRM device, the data including data indicative of whether the left ventricle cardiac site was paced at the predetermined time interval with respect to the cardiac event at the second cardiac site, as recited in the claim. Claims 55, 56, and 58-60 depend directly on claim 54 and are believed to be in condition for allowance with claim 54.

Reconsideration and allowance of claims 29-43, 45-56, and 58-60 are respectfully requested.

### §103 Rejection of the Claims

#### *Claims 44 and 57*

Claims 44 and 57 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kramer. Applicant respectfully traverses the rejection for as least the following reasons.

As stated above with respect to independent claims 29 and 54, Applicant respectfully asserts that Kramer does not anticipate the subject matter recited in claims 29 and 54, as recited.

Claims 44 and 57 depend either directly or indirectly on claims 29 and 54, and are believed to be allowable for the reasons provided with respect to claims 29 and 54.

Since all the elements of the claims are not found in the reference, Applicant assumes that the Examiner is taking Official Notice of the missing elements. Applicant respectfully objects to the taking of Official Notice with a single reference obviousness rejection and, pursuant to M.P.E.P. § 2144.03, Applicant respectfully traverses the assertion of Official Notice and requests that the Examiner cite references in support of this position.

Reconsideration and allowance of claims 44 and 57 are respectfully requested.

### CONCLUSION

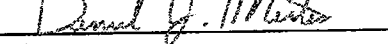
Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (715) 824-5144 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.


Respectfully submitted,

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By /   
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**CERTIFICATE UNDER 37 CFR 1.8:** The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 30 day of October 2007.



Name



Signature